



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,055	03/31/2008	Satoru Tanaka	U 016264-0	2138

140 7590 04/28/2010
LADAS & PARRY LLP
26 WEST 61ST STREET
NEW YORK, NY 10023

EXAMINER

YI, DAVID

ART UNIT	PAPER NUMBER
----------	--------------

2441

NOTIFICATION DATE	DELIVERY MODE
-------------------	---------------

04/28/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

nyuspatactions@ladas.com

Office Action Summary	Application No. 10/576,055	Applicant(s) TANAKA ET AL.	
	Examiner DAVID YI	Art Unit 2441	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 April 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to amendments filed 02/11/2010.
2. Claims 1-3, 9, 10, 15, and 17-22 have been amended.
3. Claims 1-24 are pending for examination.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. **Claims 17-24 are rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.**

Re claims **17-24**, claims **17-24** are directed to a computer readable medium storing a program which is broad enough to encompass transitory media. The United States Patent and Trademark Office (USPTO) is obliged to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. See *In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms reasonably allow). The broadest reasonable interpretation of a claim drawn to a computer readable medium typically covers forms of non-transitory tangible media and transitory propagating

Art Unit: 2441

signals per se in view of the ordinary and customary meaning of computer readable media, particularly when the specification is silent. A signal, per se, is non-statutory subject matter. *See In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter) and *Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101*, Aug. 24, 2009; p. 2.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1, 7, 9, 15, 17, and 23 are rejected under 35 U.S.C. § 102(b) as being anticipated by Nomura et al. (US 20030081595), hereinafter referred to as Nomura.**

Re claim 1, **Nomura** discloses a computer-implemented distribution request management method, comprising:

setting a maximum number of distributable requests arbitrarily for requests (set or change the maximum number of client connections to be connectable to the server [0015]) from one communication network to one or plural content providing servers provided on another communication network (**fig. 1 and [0033]**), said requests being

Art Unit: 2441

made for distribution of signals including data of contents (*distributes music or video contents [0004]*);

sending said requests sends said signal distribution requests to said contents providing servers as long as a number of said requests is within a range not larger than said maximum number (**[0098]**).

Re claim 7, **Nomura** discloses a computer-implemented distribution request management method, wherein:

when a request management means for managing requests which are made from one communication network to a content providing server provided on another communication network (**fig. 1 and [0033]**) and for distribution of signals including data of contents in a streaming format (*video streaming (low image quality) video streaming (high image quality) [0107]*) concludes that a signal including data of a specific one of said contents requested by said signal distribution requests is a signal out of an arbitrarily defined bandwidth range, said request management means prevents distribution of said signal including data of said specific one of said contents (*If the connection is judged to be impossible through the primary to tertiary judgments or if the LSP for bandwidth reservation cannot be connected on the MPLS network, the path setting unit 80A instructs the packet buffer 50 to cancel the relevant packet, thereby, the packet including the connection request message stored in the packet buffer 50 can be cancelled [0199]*).

Re claim 9, **Nomura** discloses a distribution request management apparatus comprising:

A processor and memory (**fig. 2 and [0054]**) and being provided on a communication network between one communication network and another communication network (**fig. 1 and [0033]**), wherein requests for distribution of signals including data of contents are sent from said one communication network to a content providing server provided on said another communication network (*A client CL (for example, CL1) transmits a packet (connection request packet) including a connection request message to the server SV* **fig. 1 and [0042]**) when the processor determines that the number of said requests for distribution of signals is within a range not larger than a maximum number of distributable requests set arbitrarily (**[0098]**).

Re claim 15, **Nomura** discloses a distribution request management apparatus comprising a processor and a memory and being provided on a communication network between one communication network and another communication network, in which:

When said processor concludes that a signal including data of contents in a streaming format (*video streaming (low image quality) video streaming (high image quality)* **[0107]**) and requested by a distribution request from a processing apparatus on said one communication network is a signal out of a arbitrarily defined bandwidth range, said signal including data of said contents is not distributed from a content distribution apparatus on said another communication network to said one communication network (*If the connection is judged to be impossible through the primary to tertiary judgments or*

Art Unit: 2441

if the LSP for bandwidth reservation cannot be connected on the MPLS network, the path setting unit 80A instructs the packet buffer 50 to cancel the relevant packet, thereby, the packet including the connection request message stored in the packet buffer 50 can be cancelled [0199]).

Re claim 17, **Nomura** discloses a computer-readable medium storing a program which, when executed by a computer, performs a distribution request management method the method comprising:

determining whether a number of signals transmitted from one communication network and including instructions of requests to distribute signals including data of contents is a number within a range not larger than a maximum number of distributable signals set arbitrarily, or not [0095 – 0098]; and

sending said signals transmitted including said request instructions of requests to a content providing server provided on another communication network when it is concluded that said number of said signals transmitted is a number within a range not larger than said maximum number of distributable signals ([0098]).

Re claim 23, **Nomura** discloses a computer-readable medium storing a program which, when executed by a computer, performs a distribution request management method, the method comprising:

when it is concluded that a signal including data of a specific one of contents in a streaming format (*video streaming (low image quality) video streaming (high image*

Art Unit: 2441

quality) [0107]) and requested by a distribution request from one communication network to a content providing server provided on another communication network (fig. 1 and [0033]) is a signal out of an arbitrarily defined bandwidth range, preventing signal distribution including data of said specific one of contents (If the connection is judged to be impossible through the primary to tertiary judgments or if the LSP for bandwidth reservation cannot be connected on the MPLS network, the path setting unit 80A instructs the packet buffer 50 to cancel the relevant packet, thereby, the packet including the connection request message stored in the packet buffer 50 can be cancelled [0199]).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

Art Unit: 2441

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

10. Claims 2, 3, 5, 6, 10, 11, 13, 14, 18, 19, 21, and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nomura, as applied to claims 1, 9 and 17 above, in view of Kochanski (US 20030187746).

Re claim 2, **Nomura** discloses a distribution request management method according to claim 1, yet does not explicitly suggest wherein a reserved number is set arbitrarily within a range not larger than said maximum number, and a space for requests for distribution of signals including data of each of one or plural specific contents is held to correspond to said reserved number.

However, **Kochanski** teaches a reserved number is set arbitrarily within a range not larger than said maximum number (*a minimum paid-for volume of download requests, and a maximum volume of download requests [0025]*), and a space for requests for distribution of signals including data of each of one or plural specific contents is held to correspond to said reserved number (*include the total amount of storage space that is available for file storage, and, for each specified time interval, the amount of bandwidth that is available for servicing download requests [0025]*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of **Kochanski** related to servicing download requests on the method of **Nomura** to implement a minimum paid-for volume

Art Unit: 2441

of download requests in order to provide a guaranteed minimum volume of download requests (see **[0025] of Kochanski**).

Re claim 3, **Nomura- Kochanski** discloses a distribution request management method according to claim 2, wherein an upper limit reserved number not smaller than said reserved number is set arbitrarily within a range not larger than said maximum number for each of said specific contents (*upper limit number for connections to the server can also be limited for every application, Nomura [0100]*), and requests for distribution of signals including data of said specific contents (**Nomura fig. 5 and**

[0094]), the number of which requests is larger than said reserved number and not larger than said upper limit reserved number (*impose an upper limit on the permissible volume of download requests that it receives, Kochanski [0025]*), are sent to said content providing servers as long as the number of said signal distribution requests is within a range of a number obtained by subtracting said reserved numbers assigned for said specific contents from said maximum number (*the range for the number of requests is at least for a guaranteed minimum volume of download requests and at most and a maximum volume of download requests Kochanski [0025]*).

Re claim 5, **Nomura- Kochanski** discloses a distribution request management method according to claim 2, wherein, when it is concluded that reservation start conditions are satisfied for requests for distribution of signals including data of one of said specific contents (*Bids will typically be for cache resources reserved for discrete*

Art Unit: 2441

blocks of time, beginning at the current time or a stated future time Kochanski [0028]),
a free space is assigned to said requests so as to hold a space corresponding to said
set reserved number until said assigned free space reaches said reserved number
(include the total amount of storage space that is available for file storage [0025]) as
long as said assigned space is within a range of a number obtained by subtracting said
reserved numbers assigned for said specific contents from said maximum number *(the*
range for the number of requests is at least for a guaranteed minimum volume of
download requests and at most and a maximum volume of download requests
Kochanski [0025]).

Re claim 6, **Nomura- Kochanski** discloses a distribution request management
method according to claim 2, wherein:

when it is concluded that reservation termination conditions are satisfied for
requests for distribution of signals including data of one of said specific contents, said
held space corresponding to said reserved number is released *(The connection judging*
process unit 90 notifies the received LSP identifier to the path setting unit 80 and the
path setting unit 80 releases this LSP to effectively use the resources Nomura [0147]).

Re claim 10, **Nomura** discloses the distribution request management apparatus
according to claim 9, yet does not explicitly suggest wherein a space for requests for
distribution of signals including data of each of one or plural specific contents is held to

Art Unit: 2441

correspond to a reserved number set arbitrarily within a range not larger than said maximum number.

However, **Kochanski** teaches a reserved number is set arbitrarily within a range not larger than said maximum number (*a minimum paid-for volume of download requests, and a maximum volume of download requests [0025]*), and a space for requests for distribution of signals including data of each of one or plural specific contents is held to correspond to said reserved number (*include the total amount of storage space that is available for file storage, and, for each specified time interval, the amount of bandwidth that is available for servicing download requests [0025]*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of **Kochanski** related to servicing download requests on the method of **Nomura** to implement a minimum paid-for volume of download requests in order to provide a guaranteed minimum volume of download requests (see **[0025] of Kochanski**).

Re claim 11, **Nomura- Kochanski** discloses a distribution request management apparatus according to claim 10, wherein when it is concluded that the number of requests for distribution of signals including data of each of said specific contents is larger than said reserved number and not larger than an upper limit reserved number set arbitrarily within a range not smaller than said reserved number (*impose an upper limit on the permissible volume of download requests that it receives, Kochanski [0025]*), said requests for distribution of signals are sent to said content providing server

Art Unit: 2441

as long as the number of said requests is within a range of a number obtained by subtracting said reserved numbers assigned for said specific contents from said maximum number (*the range for the number of requests is at least for a guaranteed minimum volume of download requests and at most and a maximum volume of download requests* **Kochanski [0025]**).

Re claim 13, **Nomura- Kochanski** discloses a distribution request management apparatus according to claim 10, wherein when it is concluded that reservation start conditions are satisfied for requests for distribution of signals including data of one of said specific contents (*Bids will typically be for cache resources reserved for discrete blocks of time, beginning at the current time or a stated future time* **Kochanski [0028]**), a free space is assigned to said requests so as to secure a space corresponding to said set reserved number until said assigned free space reaches said reserved number (*include the total amount of storage space that is available for file storage* **[0025]**) as long as said assigned free space is within a range of a number obtained by subtracting said reserved numbers assigned for said specific contents from said maximum number (*the range for the number of requests is at least for a guaranteed minimum volume of download requests and at most and a maximum volume of download requests* **Kochanski [0025]**).

Re claim 14, **Nomura- Kochanski** discloses a distribution request management apparatus according to claim 10, wherein when it is concluded that reservation

Art Unit: 2441

termination conditions are satisfied for requests for distribution of signals including data of one of said specific contents, said held space corresponding to said reserved number is released (*The connection judging process unit 90 notifies the received LSP identifier to the path setting unit 80 and the path setting unit 80 releases this LSP to effectively use the resources* **Nomura [0147]**).

Re claim 18, **Nomura** discloses a program of a distribution request management method according to claim 17, wherein the method further comprises:

determining whether said distribution request instructions included in the signals transmitted are instructions of requests to distribute signals including data of a specific one of said contents or not (*client CL (for example, CL1) transmits a packet (connection request packet) including a connection request message to the server SV (for example, SV1)* **[0042]**);

Nomura does not explicitly suggest determining whether the number of said signals transmitted is a number within a range not larger than a reserved number set arbitrarily for said specific one of said contents when it is concluded that said distribution request instructions included in said signals transmitted are instructions of requests to distribute signals including data of said specific one of said contents; and sending said signals including said request instructions to said content providing server provided on said another communication network when it is concluded that the number of said signals transmitted is a number within a range not larger than said reserved number.

However, **Kochanski** teaches determining whether the number of said signals transmitted is a number within a range not larger than a reserved number set arbitrarily for said specific one of said contents when it is concluded that said distribution request instructions included in said signals transmitted are instructions of requests to distribute signals including data of said specific one of said contents (*a minimum paid-for volume of download requests, and a maximum volume of download requests* **[0025]**);

and sending said signals including said request instructions to said content providing server provided on said another communication network when it is concluded that the number of said signals transmitted is a number within a range not larger than said reserved number (*the range for the number of requests is at least for a guaranteed minimum volume of download requests and at most and a maximum volume of download requests* **Kochanski [0025]**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of **Kochanski** related to servicing download requests on the method of **Nomura** to implement a minimum paid-for volume of download requests in order to provide a guaranteed minimum volume of download requests (see **[0025] of Kochanski**).

Re claim 19, **Nomura- Kochanski** discloses a program of a distribution request management method according to claim 18, wherein the method further comprises:

determining whether the number of said signals transmitted is a number within a range not larger than an upper limit reserved number (*upper limit number for*

Art Unit: 2441

connections to the server can also be limited for every application, Nomura [0100]) set to be not smaller than said reserved number, or not, when it is concluded that the number of said signals transmitted is not a number within a range not larger than said reserved number (impose an upper limit on the permissible volume of download requests that it receives, Kochanski [0025]);

determining whether the number of said signals transmitted is a number within a range not larger than a remaining number obtained by subtracting reserved numbers assigned to specific ones of said contents from said maximum number of distributable signals, or not, when it is concluded that the number of said signals transmitted is a number within a range not larger than said upper limit reserved number (the range for the number of requests is at least for a guaranteed minimum volume of download requests and at most and a maximum volume of download requests Kochanski [0025]); and

sending said signals transmitted including said request instructions to said content providing server provided on said another communication network when it is concluded that the number of said signals transmitted is a number within a range not larger than said remaining number (guaranteed minimum volume whether or not the actual requests reach such a volume Kochanski [0025]).

Re claim 21, **Nomura- Kochanski** discloses a program of a distribution request management method according to claim 18, wherein the method further comprises:

Art Unit: 2441

if it is concluded that reservation start conditions are satisfied for requests for distribution of signals including data of a specific one of said contents (*Bids will typically be for cache resources reserved for discrete blocks of time, beginning at the current time or a stated future time* **Kochanski [0028]**), said computer is made to execute said process of sending said signals transmitted including said request instructions to said content providing server until the number of said signals transmitted reaches said set reserved number (*include the total amount of storage space that is available for file storage* **[0025]**) only when it is concluded that said instructions are instructions of requests for distribution of signals including data of said specific one of said contents number (*the range for the number of requests is at least for a guaranteed minimum volume of download requests and at most and a maximum volume of download requests* **Kochanski [0025]**).

Re claim 22, **Nomura- Kochanski** discloses a program of a distribution request management method according to claim 18, wherein said method further comprises:

if it is concluded that reservation termination conditions are satisfied for requests for distribution of signals including data of a specific one of said contents, preventing said determining whether said instructions are instructions of requests for distribution of signals including data of said specific one of said contents (*The connection judging process unit 90 notifies the received LSP identifier to the path setting unit 80 and the path setting unit 80 releases this LSP to effectively use the resources* **Nomura [0147]**).

Art Unit: 2441

11. **Claims 4, 12, and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nomura, in view of Kochanski, as applied to claims 3, 11, and 19 above, further in view of Mani-Meitav et al. (US 7082456), hereinafter referred to as Mani-Meitav.**

Re claim 4, **Nomura- Kochanski** discloses the distribution request management method according to claim 3, yet does not explicitly suggest wherein for contents for which said upper limit reserved number is set at 0, said signal distribution requests are not sent to said content providing servers.

However, **Mani-Meitav** teaches wherein for contents for which said upper limit reserved number is set at 0, said signal distribution requests are not sent to said content providing servers *(the number of active connections and with the throughput capabilities thereof, accepting user requests when the limit is respected, and suspending acceptance of user requests when the limit is exceeded [col 5. lines 17-30])*.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of **Mani-Meitav** related to user requests on the internet on the combined teachings of **Nomura- Kochanski** to suspend user requests after reaching a set threshold limit in order to assist throughput reliability (see **[col 5. lines 17-30] of Mani-Meitav**).

Re claim 12, **Nomura- Kochanski** discloses a distribution request management apparatus according to claim 11, yet does not explicitly suggest wherein when it is

Art Unit: 2441

concluded that said upper limit reserved number for a specific one of said contents is set at 0, said requests for signal distribution including data of said specific one of said contents are not sent.

However, **Mani-Meitav** teaches wherein for contents for which said upper limit reserved number is set at 0, said signal distribution requests are not sent to said content providing servers *(the number of active connections and with the throughput capabilities thereof, accepting user requests when the limit is respected, and suspending acceptance of user requests when the limit is exceeded [col 5. lines 17-30])*.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of **Mani-Meitav** related to user requests on the internet on the combined teachings of **Nomura- Kochanski** to suspend user requests after reaching a set threshold limit in order to assist throughput reliability (see **[col 5. lines 17-30] of Mani-Meitav**).

Re claim 20, **Nomura- Kochanski** discloses a program of a distribution request management method according to claim 19, yet does not explicitly suggest wherein the method further comprises:

preventing said signals transmitted including said request instructions from being sent to said content providing server provided on said another communication network when it is concluded that said upper limit reserved number is set at 0 for said signals transmitted including said instructions of requests to distribute signals including data of said specific one of said contents.

Art Unit: 2441

However, **Mani-Meitav** teaches preventing said signals transmitted including said request instructions from being sent to said content providing server provided on said another communication network when it is concluded that said upper limit reserved number is set at 0 for said signals transmitted including said instructions of requests to distribute signals including data of said specific one of said contents (*the number of active connections and with the throughput capabilities thereof, accepting user requests when the limit is respected, and suspending acceptance of user requests when the limit is exceeded* [col 5. lines 17-30])

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of **Mani-Meitav** related to user requests on the internet on the combined teachings of **Nomura- Kochanski** to suspend user requests after reaching a set threshold limit in order to assist throughput reliability (see [col 5. lines 17-30] of **Mani-Meitav**).

12. **Claims 8, 16, and 24 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Nomura, as applied to claim 1 above, further in view of Koshino (US 20020065035).**

Re claim 8, **Nomura** discloses a distribution request management method according to claim 1, yet does not explicitly suggest wherein said one communication network is a mobile communication network performing wireless communication with mobile terminal devices.

However, **Koshino** teaches one communication network is a mobile communication network performing wireless communication with mobile terminal devices (*reception station 100 and the contents distribution station 200 communicate with each other through wireless channels fig. 1 and [0024]*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of **Koshino** related to a content distribution network on the method of **Nomura** to provide a wireless communication network in order to broadcast requests for distribution of contents through wireless means (see **fig. 1 and [0024] of Koshino**).

Re claim 16, **Nomura** discloses a distribution request management apparatus according to claim 1, yet does not explicitly suggest wherein said one communication network is a mobile communication network performing wireless communication with mobile terminal devices.

However, **Koshino** teaches one communication network is a mobile communication network performing wireless communication with mobile terminal devices (*reception station 100 and the contents distribution station 200 communicate with each other through wireless channels fig. 1 and [0024]*).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of **Koshino** related to a content distribution network on the method of **Nomura** to provide a wireless communication

Art Unit: 2441

network in order to broadcast requests for distribution of contents through wireless means (see **fig. 1 and [0024] of Koshino**).

Re claim 24, **Nomura** discloses a computer-readable medium storing a program which, when executed by a computer, performs the distribution request management method according to claim 1, yet does not explicitly suggest wherein said one communication network is a mobile communication network performing wireless communication with mobile terminal devices.

However, **Koshino** teaches one communication network is a mobile communication network performing wireless communication with mobile terminal devices (*reception station 100 and the contents distribution station 200 communicate with each other through wireless channels* **fig. 1 and [0024]**).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to take the teachings of **Koshino** related to a content distribution network on the method of **Nomura** to provide a wireless communication network in order to broadcast requests for distribution of contents through wireless means (see **fig. 1 and [0024] of Koshino**).

Response to Arguments

13. Applicant's arguments filed 02/11/2010 with respect to claims 1-24 have been fully considered but they are not persuasive.

14. **In response to applicant's remarks that "Nothing in Nomura would teach or suggest setting a maximum number of distributable requests arbitrarily, as recited in claim 1, the requests being made for distribution of signals including content data, and sending the signal distribution requests to the content providing servers as long as a number of the requests is not larger than the maximum number, as recited in claim 1", (Citing page 17 of applicant's remarks), Examiner respectfully disagrees.**

Applicant argues that **Nomura** does not disclose the claimed "distributable requests", because Nomura discloses "client connections" instead (page 16 of remarks). Specifically, Applicant argues that "setting or changing a maximum number of client connections to be connectable to the server" of Nomura, is not "setting a maximum number of distributable requests being made for distribution of signals including content data"

"During examination, the claims must be interpreted as broadly as their terms reasonably allow." MPEP § 2111.01(I) (citing to *In re American Academy of Science Tech Center*, 367 F.3d 1359, 1369, 70 USPQ2d 1827, 1834 (Fed. Cir. 2004)). "This means that the words of the claim must be given their plain meaning unless the plain meaning is inconsistent with the specification." MPEP § 2111.01(I) (citing to *In re Zletz*, 893 F.2d 319, 321, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989); *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1372, 69 USPQ2d 1857 (Fed. Cir. 2004)).

Art Unit: 2441

However, “[t]hough understanding the claim language may be aided by explanations contained in the written description, it is important not to import into a claim limitations that are not part of the claim.” MPEP § 2111.01(II) (quoting *Superguide Corp. v. DirecTV Enterprises, Inc.*, 358 F.3d 870, 875, 69 USPQ2d 1865, 1868 (Fed. Cir. 2004)).

In this case the phrase “distributable requests”, may be regarded as a request transmitted from a client processing device to connect the client processing device to a server storing the content data request distributed content data.

Examiner notes that **Nomura** discloses that a client CL transmits a packet (connection request packet) including a connection request message to the server SV (**fig. 1 and [0042]**), for distribution of contents such as movies, live concerts and music programs or games using the packets **[0038]**. In addition, it is disclosed in **Nomura** that the number of client connection requests to be connected to the server which distributes music or video contents is limited, where the number of client requesting to connect depends on the maximum number of client connections which the server can connect which has an upper limit value **[0004]**.

As a result, one can see that **Nomura** equivalently teaches that the number of client connections (where a client connection is established by a connection request packet) for distributed media contents is limited by setting an upper limit value. Therefore, the Examiner maintains that **Nomura** does indeed teach “setting a maximum number of distributable requests arbitrarily”, as recited in claim 1.

Applicant further argues Nomura does not teach or suggest “sending the signal distribution requests to the content providing servers as long as a number of the requests is not larger than the maximum number” (page 17 or remarks),

For clarifying the Examiner’s position, it may be important to note applicant’s **own specifications** in support of the argued limitation, which reads as follows:

“there is also a limit in the communication network to which the contents providing server is connected. Data signal distribution cannot be performed beyond an allowable transmission rate. For example, therefore, when the number of distribution requests, the amount of signals to be distributable in accordance with the requests, or the like, exceeds a predetermined limit, a process for refusing acceptance of excessive distribution requests is performed [0004]”.

Examiner notes that **Nomura** discloses that a server capability management apparatus is provided in some cases in order to limit the maximum number of client connection requests within such an upper limit value. The server capability management apparatus has a function to limit (reject) the connection requests of clients exceeding the upper limit value [0005].

As a result, one can see that **Nomura** equivalently teaches that the server has the capability to reject connection requests exceeding the upper limit value. Therefore, the Examiner maintains that **Nomura** does indeed teach “sending the signal distribution requests to the content providing servers as long as a number of the requests is not larger than the maximum number”, as recited in claim 1.

Art Unit: 2441

15. In response to applicant's remarks that "Nothing in Nomura would teach or suggest a method wherein when a request management means for managing requests concludes that a signal including data of a specific one of the contents requested by the signal distribution requests is a signal out of an arbitrarily defined bandwidth range, the request management means prevents distribution of the signal including data of the specific one of the contents, as recited in claim 7", (Citing page 19 of applicant's remarks), Examiner respectfully disagrees.

Examiner notes that **Nomura** discloses necessary bandwidth reservation (i.e. allowable bandwidth [0031]) is possible or not between the edge router LSR3 and edge router LRS1. If this allowable bandwidth is impossible, the edge router LSR3 may transmit the response packet including a message notifying that "Connection is impossible" to the client CL [0045], where the present bandwidth is compared with an upper limit of the total bandwidth which may be used to judge whether client connection requests are possible or not [0123].

As a result, one can see that **Nomura** equivalently teaches whether a connection request is possible based on a permissible bandwidth value where the necessary amount of bandwidth is judged to determine whether client connection requests are allowed or not. Therefore, the Examiner maintains that **Nomura** does indeed teach "that a signal including data of a specific one of the contents requested by the signal distribution requests is a signal out of an arbitrarily defined bandwidth range, the request management means prevents distribution of the signal including data of the specific one of the contents", as recited in claim 7.

Conclusion

16. A shortened statutory period for reply to this action is set to expire THREE MONTHS from the mailing date of this action. An extension of time may be obtained under 37 CFR 1.136(a). However, in no event, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID YI whose telephone number is (571)270-7519. The examiner can normally be reached on Mon-Fri 7:30am-5pm, Alternating Fri off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wing Chan can be reached on (571) 272-7493. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2441

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David Yi/
Examiner, Art Unit 2441

/Wing F. Chan/
Supervisory Patent Examiner,
Art Unit 2441